142 U. S. 651; *Turner* v. *Williams* (1904) 194 U. S. 279; *Fong Yue Ting* v. *U. S.* (1893) 149 U. S. 698; *Fok Yung Yo* v. *U. S.* (1902) 185 U. S. 296; *Lem Moon Sing* v. *U. S.* (1895) 158 U. S. 538. But it is well established that where the facts in question go to the jurisdiction of the officers, the finding of facts may be reviewed by the courts irrespective of legislative sanction. *Morton* v. *Nebraska* (1874) 21 Wall. 660; *Gonzales* v. *Williams* (1903) 192 U. S. 1; *In Re Fassett* (1892) 142 U. S. 479; *School of Magnetic Healing* v. *McAnnulty* (1902) 187 U. S. 94. In the recent case of *U. S.* v. *Ju Toy* (1905) 25 Sup. Ct. 644, it was held squarely that the decision of the Commissioner of Immigration, affirmed by the Secretary of Commerce and Labor, that the petitioner was an alien, could not be reviewed by the courts on habeas corpus though the petitioner alleged citizenship by birth, and had exhausted his administrative remedy. The statute making the decision of facts by the administrative officers final, refers by its words to aliens, 28 U. S. St. at L. 390. In *Gonzales* v. *Williams* (supra) the court determined that, a citizen of Porto Rico not being an alien within the meaning of the act of 1891, the Commissioner of Immigration consequently had no jurisdiction to detain and deport her by deciding a mere question of law to the contrary. To support the *Ju Toy* case on the ground of jurisdiction and take it out of the rule of the *Gonzales* decision, this statute would have to be construed in connection with the Exclusion Acts, as giving jurisdiction to the administrative officers over any person of Chinese race, whether an American citizen or not, coming into the United States. This would seem to be a radical departure from the decision in *U. S.* v. *Wong Kim Ark* (1897) 169 U. S. 649, which held that a person of Chinese race, born in the United States, was a citizen under the Fourteenth Amendment, and that the Chinese Exclusion Acts did not apply to him. A tendency to limit that case, it is true, was shown by the Supreme Court in *U. S.* v. *Sing Tuck* (1904) 194 U. S. 161, where the writ was denied on the ground that even a citizen must first exhaust his administrative remedy. The decision in the principal case would thus seem, by extending the jurisdiction of the administrative officers to all persons of Chinese race, to have subjected a certain class of citizens to the control of the administrative officers on the presumption that no person of Chinese race is a citizen, and to have put this class of citizens in jeopardy of being kept out of their country by the summary proceedings of the administrative authorities. It is suggested that this case goes farther towards emphasizing the development of the administrative arm of the government than any other decision that has appeared in recent years.

WHAT CONSTITUTES A BENEFIT IN THE LAW OF QUASI-CONTRACT.—A failure to observe the fundamental distinction between a contract and a quasi-contract has frequently led the courts by a too slight regard for the principles of the latter, to refuse a recovery in a cause sounding therein. This has been particularly obvious in a case where the plaintiff has agreed to put fixtures in a house which, before completion, burns down. The English courts deny a recovery on these facts, saying that if the parties had agreed on payment only after com-

pletion, the contract is inseparable. *Appleby* v. *Myers* (1867) L. R. 2 C. P. 651. This is but to confound the two actions and to regard a quasi-contract as based on the intention of the parties, a conception which is fundamentally wrong. Keener, Quasi-Contracts, 1–25. A recent New Hampshire case seems to have miscarried along these lines, the court holding that a contractor who had undertaken to install a heating plant in a house, could not recover in a quasi-contract action when the building was destroyed before the job was completed. *Dame* v. *Woods* (1905) 60 Atl. 744.

The courts in this country have, however, generally reached a conclusion polar to that of the above case, but by reasoning which shows analogous confusion. A recovery seems to be allowed upon the theory that there is an implied promissory condition on the part of the owner to keep the building in existence. *Niblo* v. *Binsse* (1864) 3 Abb. App. Dec. 375; *Haynes* v. *Baptist Church* (1882) 12 Mo. App. 536; *Whelan* v. *Ansonia Clock Co.* (1884) 97 N. Y. 293. If that be true, obviously the action should be brought in *special assumpsit* with, consequently, a different measure of damages. Keener, Quasi-Contracts, 256. The learned author last cited would refuse a recovery in such cases because the owner has had no actual benefit. But this, in its turn, seems based on a misconception and a use of the term more in its vulgar than legal sense. Though every benefit in the popular meaning may be a quasi-contractual one, the converse is not necessarily true. If A steal a thousand dollars from B and burn them, he has had no substantial benefit, still no existing court would refuse a recovery. And yet this is a far weaker case than where title has been intentionally transferred. The benefit is measured by the value of the *res*, not by the use the owner may make of it. Now a pillar put into a house, a dash of paint on the wall become *ipso facto* part of the house. Title passes immediately giving dominion to the owner and it is within his discretion to exercise that dominion or not. The fact that the house was destroyed by the act of God or of a third party can not change the situation. The *res* had become part of the freehold by annexation and belonged to the owner of the soil. *Hayes* v. *Gross* (1896) 9 App. Div. 13. Aff. (1900) 162 N. Y., 610.

Immunity from Compulsory Physical Examination.—In both civil trials and criminal prosecutions, courts have been guided by two principles, first, that the truth of the matter in issue must be found out, but, second, that the legal contest of proving the truth must be according to fixed rules, binding on the contestants. See 5 Col. Law Rev. 467. From the first follows the duty to give testimony. 3 Wig. Ev., §§ 2190, 2192–4. From the second have arisen the special provisions in favor of the individual, e. g. the presumption of innocence rule, the privilege against self-incrimination, and exemption from testifying as to certain privileged communications. A recent case in Montana reviews the authorities on the question whether in an action for personal injuries, the court can, on motion of the defendant and in order that he may better prepare his defense, compel the plaintiff to submit to physical examination. *May* v. *Northern*